

# EXHIBIT 5

Mechanical Steno - Computer-Aided Transcript

1 THE COURT: Sustained.

2 Q. Without telling us what was said, could you just tell us,  
3 yes or no, had you heard anything about Johnny before you met  
4 him? Just a yes or no. Don't say what was said.

5 A. Yes.

6 Q. And who was the person that said something about him?  
7 Again, just the name. I don't want to hear what was said.

8 A. It was talked about with our coach, Jovan.

9 Q. Jovan Vavic?

10:01 10 A. Yes.

11 Q. Okay. During August 19th to 26, that first week of  
12 practice, did you see Johnny Wilson in the water?

13 A. Yes.

14 Q. Okay. How was practice organized? Where were the varsity  
15 guys and where were the redshirts? Just tell us the layout.

16 A. The first week of practice is very hectic. And you know,  
17 I was practicing with the varsity team and we were all together  
18 in the same pool, but the way that it's organized is that the  
19 guys who are redshirts or not on the traveling roster, so  
10:01 20 basically they're not going to be suiting up for games, they're  
21 on one end of the pool. And the traveling team, so to speak,  
22 not the redshirts, were on the other side, but you know, still  
23 in the same pool. So the way it's organized is that we have  
24 the head coach on us and he's coaching us predominantly.

25 Q. Okay. Was there anything particularly noteworthy that you

1 saw about Johnny when he was in the water?

2 A. Nothing really noteworthy.

3 Q. Just another redshirt?

4 A. Just another redshirt.

5 Q. In late August, was there a problem at a particular  
6 practice?

7 A. Yes.

8 Q. Could you tell us what did you personally observe? What  
9 did you do and what did you observe?

10:02 10 A. As I mentioned before, I was on sort of the varsity side  
11 of the pool. Play stopped. We were working on some drills.  
12 Play stopped. I don't know what happened, but Johnny was  
13 basically swimming to the side slowly. A couple teammates, I  
14 don't remember which ones, were escorting him over. There was  
15 clearly some sort of problem, although I didn't know what it  
16 was. He was getting out of the pool and then we continued to  
17 play. You know, we were working on some things. And so next I  
18 see, he is leaving the pool. He's got, like, sunglasses on and  
19 a hoodie on and he had left and went to the hospital.

10:03 20 Q. Who left -- who was physically accompanying him as he went  
21 out of the pool area?

22 A. My roommate, McQuin Baron.

23 Q. McQuin Baron is a -- how long have you known McQuin Baron  
24 at this time?

25 A. At that time I had known him for about five years.

1 Q. Okay. He had played at Mater Dei as well?

2 A. Yes.

3 Q. Was he also on the varsity?

4 A. Yes. He was our goalie.

5 Q. Okay. One of the -- how would you describe his  
6 accomplishments as a goalie?

7 A. He was an Olympian in 2016 Rio de Janeiro. And he was a  
8 very accomplished athlete. He was player of the year in  
9 college with the Peter J. Cutino award.

10:04 10 Q. Okay. So McQuin and somebody else is taking Johnny out of  
11 the pool. Now, did McQuin have a car, to your knowledge?

12 A. Yes. McQuin was -- he had offered to take him to the  
13 hospital because he had the parking structure --

14 MR. FRANK: Objection, your Honor.

15 THE COURT: Sustained.

16 Q. Just answer my question. Did McQuin have a car at school?

17 A. Yes.

18 Q. Did you see that car?

19 A. Yes.

10:04 20 Q. Do you know where he parked it?

21 A. Yes.

22 Q. What was noteworthy about the parking space of his car?

23 A. He got the structure that was closest to the pool and the  
24 dorms, so a convenient spot.

25 Q. So McQuin left with Johnny from the pool area on this

1 particular day, correct?

2 A. That's correct.

3 Q. That evening, did you see McQuin's car?

4 A. Yes.

5 Q. How did you end up seeing McQuin's car?

6 A. It was a mess.

7 Q. Well, tell me what did you do.

8 A. Well, apparently --

9 Q. Don't tell me apparently. Just tell me I did this. I did  
10:05 10 that. Just tell me what you personally did.

11 A. I brought towels down and helped clean vomit off of it and  
12 inside of it on the door and on the outside of it.

13 Q. Okay. So you cleaned vomit out of McQuin's car the  
14 evening of the day Johnny was taken out of the pool?

15 A. That's correct.

16 Q. Have you ever had a concussion?

17 A. Yes, I have.

18 Q. One or more than one?

19 A. Just one.

10:05 20 Q. One. And are you familiar with concussion symptoms and  
21 concussion protocols for water polo players?

22 A. Yes, I am.

23 Q. Is vomiting part of a concussion symptom?

24 A. Yes, it is.

25 Q. Okay. After this time when you cleaned the vomit out of

1 McQuin's car, is Johnny at practice the next day?

2 A. No.

3 Q. Okay. Is there some period of time Johnny's not at  
4 practice?

5 A. Yes.

6 Q. Okay. Fair to say you're testifying from your memory?

7 A. That's correct.

8 Q. You weren't writing down the dates and times of these  
9 events, correct?

10:06 10 MR. FRANK: Objection to the leading, your Honor.

11 THE COURT: Sustained.

12 Q. Did you make any written record of these events?

13 A. No.

14 Q. Did you have any reason to?

15 A. No.

16 Q. Okay. You're testifying based upon your memory of  
17 seven years ago, correct?

18 A. That's correct.

19 Q. After this event with cleaning the car, do you know how  
10:06 20 long Johnny's out of practice?

21 A. He wasn't there for three weeks or so.

22 Q. Okay. Is this an estimate, or is this a precise?

23 A. This is an estimate. This is seven years ago.

24 Q. So he's not there for a while. And then when he comes  
25 back, what do you observe?

1 A. He was still not cleared for contact.

2 Q. So what did you see him doing at the pool?

3 A. Well, at first he was just observing practice.

4 Q. And then did his role change and did his tasks evolve?

5 A. Yes, yes.

6 Q. What did you observe?

7 A. Then he was cleared to do light swimming in the diving  
8 well and later on then he was allowed to come back with us and  
9 contact.

10:07 10 Q. Do you know the amount of time that passed before he was  
11 doing light swimming? Don't guess. Just tell us what you  
12 know.

13 A. Four -- probably four weeks before he could do any of  
14 that.

15 Q. Do you know that, or is that an estimate?

16 A. It's an estimate.

17 Q. Okay. So fair to say some period of time after he  
18 returns, you eventually see him in -- you call it the diving  
19 well?

10:07 20 A. Yes.

21 Q. What is the diving well and what is the point of him being  
22 there?

23 A. The point of the diving well is after you've had a  
24 concussion, you're very prone to a much worse injury if you  
25 were to get hit by a ball. And so what we do is we would go



1 and swim in the diving well so that if you're swimming and a  
2 ball comes over, you're far enough away to where if you get hit  
3 in the head, it's not going to be too big of a deal.

4 Q. Okay. Before he went into the diving well, did you see  
5 him doing any type of tasks on the pool deck?

6 A. Yes.

7 Q. What type of tasks did you observe?

8 A. He would help clean up, you know, clean lines, put the  
9 covers on, put the balls away.

10:08 10 Q. Did other injured athletes do those type of tasks?

11 A. Always.

12 Q. Okay. Did you ever see him at any games or tournaments?

13 A. Yes.

14 Q. Okay. And what did you observe there?

15 A. He was filming a lot of our games. And there's a lot of  
16 tasks that go on like if you're not playing. There's a lot of  
17 things that you have to do to help the team.

18 Q. Is that what redshirts typically do?

19 A. Yes.

10:08 20 Q. Okay. From the period that he starts returning after the  
21 incident at the pool where he's throwing up, once he starts  
22 coming back, is he at practice on a regular basis?

23 A. Yes.

24 Q. Okay. And he's doing filming? He's doing chores? What  
25 else do you observe?

1 A. That's about it, I mean, just helping with organizational  
2 things.

3 Q. Okay. By the -- as we're getting more closer towards  
4 Thanksgiving and the early December national tournament, or the  
5 NCAA finals, was he still around doing things as a member of  
6 the team?

7 A. Yes.

8 Q. Okay. Are you close friends with the Wilson family?

9 A. No.

10:09 10 Q. After Johnny left the team freshman year, did you have  
11 much contact with him?

12 A. I haven't talked to him.

13 Q. Are you friendly with him?

14 A. I know him, but I mean...

15 Q. I mean, you're not enemies? You just --

16 A. Yeah. If I saw him, I would say hi, we'd catch up for a  
17 few minutes, but I don't suspect we'd have much to talk about.

18 Q. Okay. And I take it you've never been a guest of the  
19 Wilson family for any vacations or trips --

10:09 20 MR. FRANK: Objection to the leading, your Honor.

21 THE COURT: Sustained.

22 Q. Have you ever been a guest of the Wilson family at any  
23 vacations?

24 A. Never.

25 Q. Okay. In high school, how fast could you swim 50 yards?

1 Q. Okay. Have you had any phone calls or substantive  
2 conversation with Coach Vavic since you've graduated?

3 A. None.

4 MR. KENDALL: Okay. If I may have one moment, your  
5 Honor?

6 THE COURT: Yes.

7 Q. That year 2014 that you played, were there any European  
8 recruits on the team?

9 A. Yes.

10:13 10 Q. What are the Europeans like in terms of age and size  
11 compared to the American redshirts?

12 A. They are very good at water polo. When they came in, they  
13 had been -- it's just clear that they have more experience.

14 Q. Are they -- do the Europeans come in at age 18, or do they  
15 come at a different age?

16 A. Typically older.

17 Q. How many years older?

18 A. For example, one of my teammates that came in from Serbia  
19 was, when he came in, I believe he was either 20 or 21, as  
10:13 20 opposed to 18 like myself.

21 Q. And what's their heights of the Europeans for that year  
22 2014?

23 A. I think they were a couple inches taller, 6'2", 6'3",  
24 something like that.

25 MR. KENDALL: Okay. No further questions. Thank you,

1 Q. Throughout high school?

2 A. Yes. Pretty much every Menlo player does.

3 Q. Okay. And in addition to being on SoPen, was Johnny on  
4 another club?

5 A. He participated with Stanford's -- the Stanford Water Polo  
6 Club at Stanford.

7 Q. Did you ever coach at Stanford?

8 A. For one year I think in the early 2000s I did.

9 Q. Okay. What is the -- what is the sort of -- back in the  
11:03 10 2010 to 2014 time period, what was the quality or the level of  
11 play at the Stanford Club?

12 A. Stanford's a high level club. I mean, they've been  
13 consistently -- we'll say top eight in the United States to be  
14 safe. Occasionally they win -- I mean, occasionally they're  
15 number one. It's hard for me to know exactly where they were  
16 in 2010 to 2014. Very high in level nationally ranked club.

17 Q. Back in that time, 2010 to 2014, who were the coaches or  
18 people running the Stanford Club that you're familiar with?

19 A. Jon Barnea, who's the assistant coach of the Stanford  
11:04 20 University team, has overseen the Stanford Club team and he has  
21 coached it quite a bit, but they also hire out local high  
22 school coaches. So, again, it would be hard for me to know  
23 exactly who the coaches were at the time, because they tend to  
24 change year by year, but he would have overseen and likely  
25 coached quite a bit at that time.

1 Q. Do you know Clarke Weatherspoon?

2 A. Yes.

3 Q. Who is Clarke Weatherspoon?

4 A. Clarke Weatherspoon, he teaches at a small private school  
5 in San Francisco, but he has coached, up until very recently,  
6 at Stanford's Club. I would say a very respectable coach,  
7 coaches similar style to the way that I do and he focuses a lot  
8 on character, but he's also an exceptional water polo coach.

9 Q. Do you look anything like that Jon Barnea?

11:05 10 A. That's difficult. Not really.

11 Q. He has a full head of hair, doesn't he?

12 A. He sure does. Thank you.

13 Q. Do you look anything like Clarke Weatherspoon?

14 A. I do not.

15 Q. Okay. Clarke Weatherspoon is African-American, isn't he?

16 A. He is.

17 Q. There's no way anybody would mistake you for either one of  
18 them, correct?

19 A. Correct.

11:05 20 Q. Now, how do you know Johnny Wilson and his family?

21 A. Well, I know Johnny having been his coach for seven years.

22 Q. What grade did you start coaching Johnny?

23 A. Sixth grade.

24 Q. And how did he come over to the water polo program?

25 A. That would be hard to remember back to how or why he

1 MR. KENDALL: Not for truth of the matter, just to  
2 show it was sent, your Honor.

3 MR. FRANK: Same objection.

4 THE COURT: The objection is sustained.

5 Q. Okay. Did you ever have any contact with the Wilson's  
6 apart from actual games and practices?

7 A. Very little. I mean, our water polo team I call our water  
8 polo family, and so I do occasionally interact with parents and  
9 we have -- they hosted a team dinner one night and the whole  
11:08 10 team was at their home, so occasionally.

11 Q. Do you remember they once -- Mrs. Wilson once helped  
12 organize a baby shower for your wife?

13 A. Yes.

14 Q. Okay. Once in a while, he gave you some tickets to a  
15 baseball game?

16 A. Giants games, yes.

17 Q. Other than that, did you ever have any hospitality from  
18 the Wilsons?

19 A. Aside from the team dinner, no, and those things, no.

11:09 20 Q. Okay. How good was the Menlo School water polo team in  
21 the 2010 to 2014 period?

22 A. We won league, which is a relatively small league. We won  
23 league. We were top five in CCS, which is a much larger  
24 section. I would put us roughly 25th to 15th in the country  
25 depending on the year.

1 Q. One of the top 15 to 25 teams in the country?

2 A. Yes.

3 Q. Okay. And you said the CCS. What is CCS?

4 A. It stands for Central Coast Section. It's the section of  
5 teams from like Monterey up to San Francisco, all down the  
6 peninsula. It's about 150 schools. I don't know the exact  
7 number of schools, but it's the big section title that everyone  
8 is essentially fighting for.

9 Q. And there's 150 water polo teams in that CCS section  
11:10 10 roughly?

11 A. I don't know. The reason I don't know is we only play the  
12 top 20 of those teams, so I really don't know how many teams  
13 are outside of the top 20.

14 Q. And typically, how was the Menlo team doing in CCS from  
15 2010 to 2014?

16 A. Top five. We finished top five whether it was quarter  
17 finals, semifinals, finals at some point in all four of those  
18 years.

19 Q. Okay. So you started coaching Johnny Wilson in sixth  
11:10 20 grade on a middle school team, correct?

21 A. Yes.

22 Q. What did you observe about his skills and abilities during  
23 his middle school years as a water polo player?

24 A. He was exceptionally fast, which is a huge, especially  
25 early on, when a lot of athletes are not so fast. So he was

1     able to just separate himself completely from everyone. I  
2     think water polo was very easy for him initially because of  
3     that.

4     Q.    How was his stamina, his ability to last in a game?

5     A.    Outstanding.

6     Q.    Is that important, speed and stamina for a water polo  
7     player?

8     A.    Extremely.

9     Q.    Okay. Was he both on the swim team and the water polo  
11:11 10    team during middle school?

11    A.    I would be surprised if he wasn't on the swim team. I  
12    just can't remember because I wasn't so involved and I don't  
13    have a recollection of that. He was on the water polo team.

14    Q.    Okay. And then you coached him through four years of high  
15    school?

16    A.    Yes.

17    Q.    How would you characterize him as a high school player?

18    A.    Boy, so Johnny, who I have very fond memories of, was --  
19    again, the speed factor, people start to catch up. Athletes  
11:12 20    start to catch up on speed, and despite that, he would still  
21    continue to separate himself, even at this high level. And in  
22    part, because he was sort of a -- he was like a quiet grinder  
23    is the best. I would give guys -- and sometimes part of being  
24    your best is being pushed to failure and seeing what you do.  
25    Do you complain? Do you yell at your teammates? And Johnny



1 was the kind of guy who I couldn't get to crack. I would say  
2 do this impossible swim set and he would put his head down and  
3 do it.

4 And so that sort of focus led to the way that he  
5 played the game. He was a -- sort of a nonstop constantly  
6 moving -- he was a driver. So that meant after you swim the  
7 length of the pool, you then are expected to do this really  
8 explosive drive, which I -- whether or not this is relevant, I  
9 was the goalie and I feel like what Johnny and those athletes  
11:13 10 do is just miserable. It doesn't look like any fun to me at  
11 all and Johnny was willing to do the really miserable part of  
12 water polo and he kind of did it quietly. So you know, quiet  
13 grinder is the best way I could summarize him in a nutshell.

14 Q. What does grinder mean? What do you mean when you use the  
15 word "grinder"?

16 A. What do I mean? I mean that he's got the fortitude to  
17 just put your head down and swim these very challenging  
18 difficult sets without stopping, without complaining, to just  
19 get it done. Whereas a lot of young players stop, they come up  
11:13 20 with excuses, my goggles are loose, I need to get some water, I  
21 forgot to call my mom, he just went in and did these sets  
22 consistently.

23 MR. KENDALL: Your Honor, this might be a good time  
24 for the break.

25 THE COURT: Yes. We will take the morning recess for

1 A. Oh, yes.

2 Q. Okay. Are those qualities that Division 1 coaches look  
3 for in high school athletes?

4 A. Yes.

5 Q. Okay. Would it be fair to say Johnny was playing varsity  
6 his sophomore year, correct?

7 A. Yes.

8 Q. Did his teammates give him any particular recognition  
9 sophomore year?

12:02 10 A. Yeah. So sophomore year was unique in that we run a  
11 tournament in honor of a player that was unfortunately killed  
12 in a car accident when he went off to play at Princeton. It's  
13 called the Scott Roach Invitational. It honors his spirit. It  
14 turns out the kid was an amazing person in many ways, but  
15 that's not necessarily relevant here.

16 So we host this tournament called the Scott Roach  
17 Invitational. And that year we won the tournament. It's a  
18 pretty high level tournament, and we won the tournament. And  
19 so typically there's a sponsor of the tournament, you get like  
12:03 20 a suit or a bag or a shirt or something. And the sponsor gave  
21 me an extra, I think it was an extra sweatshirt, some extra  
22 item. And the team decided to vote on who was the most  
23 inspirational player of the tournament, and they chose Johnny.

24 Q. As a sophomore?

25 A. Yeah.

1 memory.

2 A. Right.

3 Q. If you could look at the one, two, third paragraph of the  
4 e-mail.

5 A. Yes. So what I --

6 THE COURT: Take the document down after he's had a  
7 chance to read it.

8 THE WITNESS: I saw it, thank you.

9 A. What I would have told Johnny in this situation is how to  
10 start the outreach with each of the coaches, which begins by  
11 introducing himself, sending a cover letter, sending a resume,  
12 which I look over, and that he reaches out to all the coaches.  
13 In this case the USC coach was included in that. And to  
14 establish a relationship with those coaches because the  
15 recruiting process isn't just one outreach, "I'd like to go to  
16 your school," and the coach says, "We'd like you" or "We don't  
17 want you." They need a sense to understand what this athlete  
18 is like, how serious are they taking this, how professional are  
19 they, what's their coach saying about them, how are they  
12:13 20 stacking up against all the other athletes.

21 So what I would have told Johnny to do here in this  
22 case is to do that with the USC coach, and that's the work that  
23 we were doing with all the coaches, including the USC coach.

24 Q. Do you remember telling him that you supported him in the  
25 process?

1 A. Yes.

2 Q. Okay. And you were enthusiastic about him trying to do  
3 this?

4 A. I'm enthusiastic about doing this process with all of my  
5 student athletes, and I would have been with Johnny,  
6 absolutely.

7 Q. And you offered to do anything you could to help with his  
8 application, correct?

9 A. "Anything I could" is strong. But I --

12:14 10 Q. If you could take a look at 7679 again, please, and tell  
11 us -- 7976, please. And if we could leave it up for a minute  
12 and if you could read the third paragraph.

13 A. Yes.

14 Q. And after you've read that, could you tell us, does that  
15 refresh your memory --

16 A. It does.

17 Q. -- you told the Wilsons that you --

18 A. I wanted the Wilsons to know if there was anything that I  
19 could do to help in the process, I am more than happy to do  
12:14 20 that.

21 Q. Okay. When Johnny had his concussion, did he remain part  
22 of the team for the rest of the season?

23 A. Yes, he was with the team. He couldn't -- he wasn't  
24 allowed to train during that specific time.

25 Q. Okay. Other than USC, did Johnny express interest in any

1 other teams for recruiting?

2 A. So, yes. The two that jump out -- typically I ask players  
3 to at least get to a list of six, if not more, because of how  
4 challenging the process is. I know he got interest from the  
5 Air Force Academy, although I don't remember him being super  
6 interested in that. He did get some interest from the Boston  
7 College swim program, although they didn't have water polo. He  
8 would have, although I don't remember, have had other schools  
9 on his list.

12:15 10 Q. Okay. I'd like to show you Exhibit 7960, and if you could  
11 read that document and tell us if you recognize it.

12 A. Yes.

13 Q. And what is it?

14 A. It's an e-mail from me to Leslie and John Wilson, Johnny's  
15 father.

16 Q. Is it during his senior year in high school?

17 A. Yes. It's right at the beginning of his senior year, yes.

18 Q. And did you send this to them as part of your work as the  
19 coach at the Menlo School?

12:16 20 A. Yes.

21 Q. As part of your college advising work?

22 A. Not -- I mean, as part of my work with my athletes.

23 Q. Yes?

24 A. So, yes.

25 MR. KENDALL: Your Honor, I offer 7960 into evidence

1 again to show state of mind of my client.

2 MR. FRANK: Objection, hearsay.

3 THE COURT: The objection is sustained.

4 MR. KENDALL: Okay.

5 Q. At some point did you agree to write a recommendation for  
6 Johnny to USC?

7 A. Yes.

8 Q. Okay. What type of recommendation did you offer to write,  
9 an academic one, a nonacademic one?

10 A. It would by definition be a nonacademic recommendation.  
11 Schools typically require two academic and then allow for a  
12 nonacademic. So it would have been from his water polo coach  
13 per se.

14 Q. Okay. Did you volunteer to a lot of parents to write  
15 nonacademic recommendations?

16 A. I don't typically do that.

17 Q. And why did you offer it for Johnny?

18 A. I think it was a way, especially with what he was going  
19 through with concussion and then being out of town, and just  
12:17 20 wanting to make sure that everything was being done for him to  
21 help him get to the next step that he wanted to get to.

22 Q. In fact, you didn't write a recommendation to USC,  
23 correct?

24 A. That's correct.

25 Q. But did you have a phone call with the USC coach?

1 A. Yes.

2 Q. Okay. Now, do you know Coach Vavic?

3 A. Yes.

4 Q. Okay. Do you know Coach Moon, Casey Moon?

5 A. Yes.

6 Q. Did you know Coach Marko Pintaric at the time?

7 A. Yes.

8 Q. Do you remember specifically who called you about Johnny?

9 A. No.

12:17 10 MR. FRANK: Objection, assumes facts not in evidence.

11 THE COURT: I didn't hear you.

12 MR. FRANK: The question was who called you.

13 THE COURT: Sustained.

14 Q. You had a telephone call with the USC coach, correct?

15 A. Correct.

16 Q. Do you remember which of those three coaches it was?

17 A. I would guess Pintaric. He's the one that handles -- that  
18 I do almost all of the recruiting with. Although Casey, when I  
19 send e-mails, gets carbon-copied.

12:18 20 Q. Is it fair to say if it was Vavic, you would have  
21 remembered that?

22 A. Yes.

23 Q. So either Pintaric or Moon called you, correct?

24 A. I don't know who called who.

25 Q. Okay. Strike that. I appreciate that, and I'm not

1 looking to suggest anything.

2           There was a phone call between you and one of those  
3 two coaches, correct?

4 A. Correct, yes.

5 Q. And you spoke to them about Johnny?

6 A. Correct.

7 Q. Do you remember exactly what you said?

8 A. There's just -- no, I can't get to a call I made a year  
9 ago about a player, so I can't get to seven years ago.

12:18 10 Q. Do you remember being supportive of Johnny going to USC?

11 A. I would have been.

12 Q. When you get recruiting calls from college coaches, are  
13 you always truthful with them?

14 A. Painfully.

15 Q. Do you ever exaggerate or misrepresent an athlete?

16 A. I try my best not to.

17 Q. So you spoke on the phone with one of those two coaches,  
18 and after that did you hear that Johnny got into USC?

19 A. At some point in time, yes, that's the chronology.

12:19 20 Q. Okay. What was your reaction when you heard that he was  
21 admitted?

22 A. I was a little surprised. I wouldn't say shocked, but a  
23 little surprised.

24 Q. And what did you think had influenced them to accept him?

25 A. I joked at the time to friends that what I had said on the



1 phone must have influenced the coach. Like, I said, "That call  
2 must have done it."

3 Q. Okay. And that's because you thought Johnny had speed for  
4 the high level of college play?

5 A. It's a combination of his speed, which you can't teach.  
6 So the speed and the water polo IQ just by virtue of starting  
7 for a team, a national caliber team for three years, that is  
8 enough to confidently say by your junior year, maybe senior  
9 year, you could contribute to a high-level program like USC.

12:20 10 Not as a freshman or a sophomore but later in the career.

11 Q. Okay. At the time this happened, you knew how good the  
12 USC team was, correct?

13 A. Yes.

14 Q. You knew how tough Coach Vavic was, correct?

15 A. Yes.

16 Q. And you thought Johnny could find a place in that program?

17 A. Yes.

18 Q. Did your conversation with the USC coach take place before  
19 or after Johnny had his concussion, if you can remember?

12:21 20 A. I cannot remember that chronology.

21 Q. Okay. Are you aware of the honor given to some high  
22 school athletes of being all-CCS?

23 A. Yes.

24 Q. What does that mean?

25 A. It's very similar to the all-league. It's a bigger award

1 because it's a much bigger section. There are about 11 leagues  
2 in the section. So like the Peninsula Athletic League is one  
3 of those leagues that we talked about previously. And then  
4 there are about 11 -- ten other leagues. So about 11 leagues  
5 total in the CCS, which is the section.

6 Q. Okay. And what does it mean to be tier one versus tier  
7 two in the CCS section?

8 A. Division 1. Division I versus Division 2?

9 Q. Thank you. Division 1 versus Division 2.

12:22 10 A. It's a little misleading. The way they separate the  
11 divisions is at the end of the season the committee puts  
12 together what they believe to be the -- let's see, there's a  
13 quarter final -- the top sixteen teams in all of CCS.

14 So they say after the entire regular season is over  
15 and the league playoffs are over, they say here are the top 16  
16 teams in all of CCS. But then what they do is they break them  
17 up by school size. So they say, okay, the eight biggest  
18 enrollment sizes from these 16 are Division 1, and then the  
19 eight smallest by enrollment are Division 2, and then those two  
12:23 20 groups of eight have a playoff, a quarter final, a semifinal  
21 and then a final. And then the winner of those are the  
22 respective Division 1 and Division 2 champions.

23 Q. Though the Division 2 schools are smaller, which ones back  
24 in that 2010 to '14 time period actually had the better water  
25 polo team?

1 abilities?

2 MR. KENDALL: Objection, your Honor. Can't speak to  
3 what other people were thinking would happen with other people.

4 THE COURT: Sustained.

5 Q. Would you agree, sir, that lying on a profile is not being  
6 your best?

7 A. Yes.

8 MR. FRANK: No further questions.

9 THE COURT: Redirect, Mr. Kendall?

02:48 10 MR. KENDALL: One moment, your Honor.

11 REDIRECT EXAMINATION OF JOHN BOWEN

12 BY MR. KENDALL:

13 Q. Mr. Bowen, I think when you were under examination you  
14 said he had A plus speed?

15 A. Yes.

16 Q. Did you also say he had an A or A plus work ethic as a  
17 grinder?

18 A. Yes.

19 Q. Okay. Did -- was it your view that he could make a -- if  
02:49 20 he had joined the USC program and stuck with it, he would make  
21 a meaningful contribution to it?

22 A. The way I've consistently framed it as I did believe,  
23 given his speed and his water polo IQ, that at some point by  
24 his junior or senior year he could make a contribution to a  
25 program like USC.

## 1 C E R T I F I C A T E

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4 UNITED STATES DISTRICT COURT )5 DISTRICT OF MASSACHUSETTS )  
6  
78 We, Kristin M. Kelley and Kelly Mortellite, certify  
9 that the foregoing is a correct transcript from the record of  
10 proceedings taken October 4, 2021 in the above-entitled matter  
11 to the best of our skill and ability.  
12  
1314 /s/ Kristin M. KelleyOctober 4, 202115 /s/ Kelly MortelliteOctober 4, 202116 Kristin M. Kelley, RPR, CRR  
17 Kelly Mortellite, RMR, CRR  
18 Official Court Reporter  
19  
20  
21  
22  
23  
24  
25

Date